

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DENNIS PIKEY,)	
)	
Petitioner,)	
)	
v.)	No. 4:08-CV-1986-AGF
)	
DUNKLIN COUNTY, et al.,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

This matter is before the Court upon petitioner Dennis Pikey's application for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the Court finds that petitioner is financially unable to pay any portion of the filing fee.

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Having reviewed the amended petition [Doc. #4], the Court will order petitioner to show cause as to why the Court should not dismiss the instant action for failure to exhaust available state remedies.

The amended petition

Petitioner, an inmate at the Farmington Correctional Center, seeks a speedier release from confinement pursuant to 28 U.S.C. § 2254. Petitioner alleges that he was

not awarded probation time following the “sentence later handed down by a sentencing judge.” Specifically, petitioner claims that he should be credited for the period of February 4, 2004 to June 30, 2004.

Upon review of the instant petition, the Court finds no indication that petitioner has previously presented his claims at the state level. In the absence of exceptional circumstances, a state prisoner must exhaust currently available and adequate state remedies before invoking federal habeas corpus jurisdiction. Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973). State remedies are ordinarily not considered exhausted if an individual may effectively present his claim to the state courts by any currently available and adequate procedure. The State of Missouri provides several avenues of relief for prisoners in state custody.

In accordance with the foregoing,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that no order to show cause shall issue at this time as to respondents, because it appears that petitioner did not exhaust available state remedies before invoking federal habeas corpus jurisdiction.

IT IS FURTHER ORDERED that petitioner shall show cause within thirty (30) days of the date of this Order as to why the Court should not dismiss the instant

application for failure to exhaust available state remedies. Petitioner's failure to file a show cause response shall result in the denial of the instant habeas corpus petition and the dismissal of this action, without prejudice.

Dated this 12th day of February, 2009.

A handwritten signature in black ink, reading "Henry Edward Autrey", with a long horizontal flourish extending to the right.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE